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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,792	01/18/2002	Steven A. Thiel	10541/1074	7451

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EXAMINER	
CORCORAN, GLADYS J PIAZZA	
ART UNIT	**PAPER NUMBER**
1733	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/055,792	THIEL ET AL.	
	Examiner	Art Unit	
	Gladys J Piazza Corcoran	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *Decemebr 6, 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5 and 9-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5 and 9-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-3,5 and 9-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1, 2, 3, 9, 11, 17, 19 recite that the reservoir unit and the reservoir assembly are fastened to a shell portion. The Original Specification only discloses that the reservoir unit is fixed or attached to the shell wall using weld feet that are attached to the reservoir unit and welded to the shell (page 3, lines 8 and 14; page 7, lines 14-15; page 11, lines 6-7, 15, 20-22; page 12, lines 10, 19). The Original Specification also discloses that the weld feet are bonded to the shell (page 12, lines 2-3). Finally the Specification also discloses that rod weld feet are welded to mount the reservoir assembly within the tank by using support rods (page 14, lines 15-21). There is no disclosure of fastening the reservoir unit or assembly. The term fastening includes embodiments not disclosed in the original Specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention (for example, by using rivets). It is

suggested to amend the claims to recite language as originally disclosed in the Specification.

Claim 13 further recites that the fastening of the reservoir unit includes joining the reservoir assembly to one of the shells. As discussed above in reference to the term "fastening", there is also no support in the original Specification for joining, which includes embodiments not fully disclosed in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention (for example, joining parts of the assembly with adhesive). It is suggested to amend the claims to recite language as originally disclosed in the Specification.

Claim 14 further recites that the joining includes bonding the reservoir assembly to one of the shells. As discussed above in reference to the term "fastening", there is also no support in the original Specification for bonding the reservoir assembly, which includes embodiments not fully disclosed in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention (for example, bonding parts other than the weld feet). While the Specification does disclose that the weld feet are bonded to the shells, there is no disclosure for bonding the reservoir assembly. It is suggested to amend the claims to recite language as originally disclosed in the Specification.

Claims 15 and 16 recites that a member extending from the reservoir unit is joined/bonded to the at least one shell portion. As discussed above in reference to the

term "fastening", there is also no support in the original Specification for joining, which includes embodiments not fully disclosed in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention (for example, joining parts of the assembly with adhesive). Additionally, while the Specification discloses attaching weld feet to the reservoir unit which are bonded to the shell, there is no support in the Specification for "a member extending form the reservoir unit" that is joined or bonded to the shell. It is suggested to amend the claims to recite language as originally disclosed in the Specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-3,5 and 9-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 2 and 3 are unclear by reciting in claim 1 that the reservoir unit is fastened to the shell portion and then in claims 2 and 3 reciting that the reservoir assembly is fastened to the shell. It is unclear whether Applicant intends the fastening in claim 1 to be the same as the fastening in claims 2 and 3. Clarification is required.

6. Claim 11 is unclear by reciting in claim 9 that the reservoir unit is fastened to the shell portion and then in claim 11 reciting that the reservoir assembly is fastened to the shell. It is unclear whether Applicant intends the fastening in claim 9 to be the same as the fastening in claim 11. Clarification is required.

7. Claim 15 recites the limitation "the at least one of said thermoformed shell portions" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim. There are two mentioned at least one of said thermoformed shell portions in the independent claim 9, clarification as to which one is referred to is required.

8. Claim 16 recites the limitation "the at least one of said thermoformed shell portions" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim. There are two mentioned at least one of said thermoformed shell portions in the independent claim 9 and claim 15, clarification as to which one is referred to is required.

9. Claim 18 is unclear by reciting that the reservoir assembly is attached to at least one of the shells using the weld feet while claim 17 recites that the reservoir unit is fastened to the shell. It is unclear whether the attachment or the fastening is considered the same.

10. Claim 19 recites the limitation "said weld feet" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 1, 2, 3, 9, 11, 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth US Patent No. (6,179,145) in view of Linden et al. (US Patent No. 5,326,514).

Roth discloses a method for assembling a fuel delivery system by thermoforming a first shell portion (14) and a second shell portion (16) of a fuel tank (10) (column 2, lines 34-59; column 3, lines 23-25), forming a fuel tank access aperture (opening 56) in at least one of said first and second shell portions for allowing access to components within the tank (column 3, lines 30-36), and sealingly connecting said first and second shell portions to form a fuel tank to enclose the components within said fuel tank (column 3, lines 26-27). Roth also discloses that the internal components of the fuel tank are disposed between the half shells prior to sealing (column 3, lines 23-27).

However, while Roth discloses providing a reservoir unit, there is no discussion on how the reservoir unit is provided within the tank. Consequently, one of ordinary skill in the art at the time of the invention would look to known methods of providing reservoir units within fuel tanks. It is considered well known in the fuel tank art to fasten/join bond/weld reservoir units to the wall of the tank in order to secure the unit to the tank in order to have continuous flow of the fuel even during tilting of the tank. For example,

Linden discloses providing a reservoir assembly (body 26) having a reservoir unit (34) and fastening the reservoir unit and assembly to the bottom wall of the tank in order to provide sufficient fuel in the region of intake to the fuel pump (column 1, lines 1-27). In particular the method as shown by Linden is provided in order to allow reactive gases for treatment of the tank to flow underneath the reservoir unit (column 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of forming a fuel delivery system as shown by Roth with a reservoir unit fastened to one of the shells in order to provide the reservoir within the fuel tank by a conventional method in the art in order to maintain a continuous flow of fuel to the pump as further exemplified by Linden.

As to claim 9, Roth discloses a plurality of thermoformed shell portions (14 and 16) for a fuel tank (10), with at least one having a fuel tank access aperture (opening 56) and Linden as discussed above discloses a non-integral reservoir assembly comprising a reservoir unit (34) having its smallest cross-sectional area being greater than the area of the fuel tank access aperture (see figures of both Roth and Linden) with the assembly configured to store fuel and being fastened to one of the shell portions inside the fuel tank. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the tank in Roth with a reservoir having its smallest cross-sectional area being greater than the area of the fuel tank access aperture which is fastened to the shell wall as shown by Linden as considered conventional in the art in order to maintain a continuous flow of fuel to the pump.

As to claim 2, Linden discloses the reservoir assembly is fastened to one of the shells with a plurality of weld feet (36). As to claim 3, the weld feet in Linden comprise heat deformable structures fastened to the reservoir assembly capable of forming a molecular bond with said one of the shells. As to claim 11, the weld feet in Linden are a plurality of heat-deformable weld feet capable of forming a molecular bond with said thermoformed shell portions, wherein the non-integral reservoir assembly is fastened to at least one of the shell portions using the weld feet (36). As to claims 13-16, the fastening of the reservoir unit/assembly in Linden includes joining and bonding to one of the shells with a member extending from the reservoir unit (feet 36). As to claim 17, see the discussion of claim 9 above and further, Linden discloses a plurality of heat-deformable weld feet (36) capable of forming a molecular bond with the shell portions. As to claim 18, the reservoir assembly in Linden is attached to at least one of the shell portions with the weld feet (36). As to claim 19, see discussion of claim 9 above and further, the reservoir asse3mbly in Linden is fastened to at least one of the shell portions using weld feet.

14. Claims 5, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth US Patent No. (6,179,145) in view of Linden et al. (US Patent No. 5,326,514) as applied to claims 1 and 9 above, and further in view of Walter (WO 00/56564 with US Patent No. 6,606,980 as the English Equivalent).

As to claims 5 and 12, Roth discloses providing a cover (sealing cover 58), removably securing the cover to the first or second shell for sealing the fuel tank, and removing the cover after the first and second shell portions are connected together to

allow access to the components in the tank. The cover in Roth seals the aperture from the outside of the tank. However, it is well known in the art to provide covers such as flanges that are disposed within the fuel tank access aperture. For example, Walter discloses one such example, cover 18. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of forming the fuel delivery system as shown by Roth and Linden by providing a flange disposed within the aperture as a well known equivalent alternate to an outer cover as is considered well known in the art and exemplified by Walter, only the expected results would be attained.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roth US Patent No. (6,179,145) in view of Linden et al. (US Patent No. 5,326,514) as applied to claim 9 above, and further in view of Tuckey (US Patent No. 6,012,904).

Roth discloses the reservoir assembly comprises a fuel pump (32), a fuel level sensor (float 40, arm 42, and level 44), inline fuel filter assembly (strainer 34), an auxiliary pump (jet pump), and a pressure regulator assembly (vent valve) (column 2, line 59 to column 3, line 5). It is well known in the art to provide the claims items in a reservoir system. For example, Tuckey discloses providing a reservoir assembly for fuel tank with an auxiliary pump (152), a fuel pump (62), a reservoir cover (90), an inline fuel filter assembly (140), a fuel pressure regulator assembly (valve column 2, lines 52-64), and a level sensor assembly (126) mounted to the reservoir unit. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the fuel delivery system as shown by Roth and Linden with conventional reservoir assembly parts in particular a cover in order to provide the proper functions of the system

including preventing sloshing of the fuel out of the system as is well known in the art and further exemplified by Tuckey, only the expected results would be attained.

Allowable Subject Matter

16. The previous indication of Allowable Subject Matter is withdrawn in light of the newly found art, Linden et al. (US Patent No. 5,326,514).

Response to Arguments

17. Applicant's arguments filed on December 6, 2004 have been fully considered but are moot in light of the newly applied reference Linden (US Patent No. 5,326,514).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gladys J Piazza Corcoran whose telephone number is (571) 272-1214. The examiner can normally be reached on M-F 8am-5:30pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gladys JP Corcoran
Primary Examiner
Art Unit 1733

GJPC